REMARKS

The Applicant appreciates the time taken by the Examiner to review the Applicant's present application. This application has been carefully reviewed in light of the Examiner's comments, including the Office Action mailed April 29, 2008. The Applicant respectfully requests reconsideration and favorable action in this case.

Summary of rejections and amendments

The Examiner previously rejected claims 8 and 14 under 35 U.S.C. §102(e), and claims 1-2 and 8-14 under 35 U.S.C. §103(a). The Applicant has amended claims 1, 8 and 14 and added new claims 15-20. Claims 1-20 are therefore pending in the application.

Amendment of specification

The Applicant has amended paragraph 0048 to correct a typographical error. The Applicant respectfully submits that no new matter has been added by this amendment.

Rejections under 35 U.S.C. §102

Claims 8 and 14 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,099,426 ("Cory"). The Applicant respectfully traverses this rejection.

Cory discloses systems for buffering data streams. In Cory's systems, data is written into buffers at a first clock rate and then read out of the buffers at a second clock rate. In order to account for differences between the first and second clock rates, Cory either skips samples or re-reads samples in order to ensure that there is not a buffer underflow or a buffer overflow (col. 8, lines 8-18.) A single controller controls the reading of samples from all of the different buffers, so there is no difference between the read and write pointers in the different buffers.

The present invention, on the other hand, includes systems and methods for controlling the rates at which samples of input audio streams are read from input buffers by adjusting the rates at which the samples are read from the buffer. None of the samples are skipped or re-read as taught by Cory. Further, only the master's buffer is controlled to drive the difference between the read and write pointers to a target difference – the remainder of the buffers are controlled to drive the differences between their respective read and write pointers to the difference between the master's read and write pointers.

The Applicant points out that claims 8 and 14 have been amended to clarify that the target difference between the read and write pointers is achieved by controlling the rate at which samples are read from the buffer. Cory clearly fails to teach this limitation of the claims. Further, as noted above, Cory fails to teach that the sample read rates for the remainder of the

buffers are separately controlled, or that their read/write pointer differences are driven to that of the master buffer. Still further, the claims have been amended to specify that samples are read from the input buffer in the order in which they were written to the buffer, without skipping or re-reading any of the samples. This is distinct from Cory, which relies on the skipping and re-reading of the samples to achieve the desired read/write pointer difference. Because Cory fails to teach these limitations, it cannot anticipate the claims under 35 U.S.C. §102.

Rejections under 35 U.S.C. §103

Claims 1, 2, 8 and 10-14 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Pub. No. 2002/0122518 ("Yasuda") in view of Cory. Claim 9 is rejected under 35 U.S.C. §103(a) as being unpatentable over Yasuda and Cory and further in view of U.S. Patent No. 7,302,396 ("Cooke".) The Applicant respectfully traverses these rejections.

The Examiner states that Yasuda teaches the limitations of claim 1, except for the use of a target different for the read/write pointers of a first buffer and the use of the first buffer's actual pointer difference as the target for the remainder of the buffers. The Examiner states that this is taught by Cory. The Applicant respectfully disagrees.

As explained above, Cory fails to teach the limitation that the Examiner points out is missing from Yasuda, instead teaching that all of the buffers are identically controlled. Further, claim 1 has been amended to include the limitation of reading samples from the buffer in the order they were written into the buffer, without skipping or re-reading any of the samples. As explained above, this limitation is not taught by Cory. Yasuda also fails to teach this limitation, as it relies on the skipping of samples when reading the buffer to implement the re-sampling of the over-sampled data that is written into buffer 13 from over-sampling filter 12. The applicant submits the Cooke also fails to teach the limitations that are missing from Yasuda and Cory and notes that the Examiner does not contend that it does.

Because the combination of Yasuda and Cory (and Yasuda, Cory and Cooke) fails to teach these limitations, the Applicant respectfully submits that they cannot render any of the pending claims (all of which include these limitations) obvious. The Applicant therefore requests that the rejections be withdrawn and the claims allowed.

References of record but not relied upon

The Examiner cites a number of references as being pertinent to the disclosure of the present application, but does not rely on these references in the rejections. The Applicant's review of these references does not reveal any disclosure which is sufficient to remedy the

shortcomings of the references upon which the Examiner relies. The Applicant therefore submits that the claims are allowable over these references as well as the cited references.

<u>Allowable subject matter – new claims</u>

The Examiner states that claims 3-7 are objected to as being dependent upon a rejected base claim, but that these claims would be allowable if rewritten in independent form, including the limitations of the base and intervening claims. The Applicant has rewritten these claims in independent form, including the limitations of the base and intervening claims, as new claims 15-19. The Applicant therefore believes claims 15-19 are allowable as written.
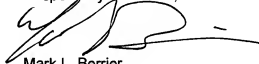
<u>Conclusion</u>

The Applicant has now made an earnest attempt to place this case in condition for allowance. Other than as explicitly set forth above, this reply does not include an acquiescence to statements, assertions, assumptions, conclusions, or any combination thereof in the Office Action.

For at least the foregoing reasons, the Applicant respectfully requests allowance of all claims pending in the application. The Examiner is invited to telephone the undersigned at the number listed below for prompt action in the event any issues remain.

If any extensions of time are necessary to prevent the above referenced application from becoming abandoned, the Applicant hereby petitions for such extensions. If any fees have been inadvertently omitted, or if any additional fees are required, or if any amounts have been overpaid, please appropriately charge or credit those fees to Deposit Account No. 50-3085 of the Law Offices of Mark L. Berrier.

Respectfully submitted,

Mark L. Berrier
Reg. No. 35,066

Dated: 7/29/08

Law Offices of Mark L. Berrier
3811 Bee Caves Road, Suite 204
Austin, Texas 78746
telephone: 512.306.9200
facsimile: 512.306.9952
mberrier@texasIP.com